



# THE INTERIM

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## LEGISLATIVE STAFF HONORED

Three Legislative Service Division staff members were recognized for their outstanding achievements at the National Conference of State Legislatures annual meeting held in Boston in early August. Greg Petesch received the Legislative Staff Achievement Award from the Legal Services Staff Section. Each NCSL legislative staff section annually presents an achievement award to recognize staff excellence in supporting the work of a state legislature and strengthening the legislative institution. Petesch is the code commissioner and director of Legal Services and has been with the Legislative Services Division since 1979.

The Legislative Research Librarians section of NCSL commended staff of the Environmental Quality Council for innovative publications that provide substantive information on contemporary issues of interest to legislatures. They presented the 2007 Notable Documents Award in the legislatively-mandated category to Joe Kolman for the publication *Split Estates: The Relationship Between Surface and Minerals*. Todd Everts and the EQC staff received a similar award in the citizen's guide category for the publication *Water Rights in Montana*.

Everts is the legislative environmental analyst and an attorney who has been with the EQC since 1991. Kolman is a research analyst who has been with the EQC since 2004. The EQC has been part of the Legislative Services Division since 1995.

## NEW LEGISLATIVE LIBRARIAN HIRED

We are pleased to announce that the Montana Legislative Services Division has hired a legislative librarian. His name is Scott Juskiewicz, and he is ready to assist with any legislative research projects. The librarian position has been vacant since November 2006 when the previous librarian, Lisa Mecklenberg Jackson, who is also an attorney, was hired as a legislative staff attorney. Because of other commitments at the time, we were unable to fill the librarian position before the start of the legislative session. We are delighted to have Scott on board.

Scott was raised in Cambridge, Vermont, a dairy farming community 35 miles northeast of Burlington. He received a BA in history from Ithaca College in 1993 and a MSIS from the University at Albany in 2005. Scott was a reference and instruction librarian at Syracuse University and an adjunct instructor at Bryant and Stratton College where he taught an introductory course in information literacy. Scott also worked as a concrete finisher in Bozeman. He enjoys the outdoors especially skiing, snowboarding, hunting, and fishing. He is also loves music and plays the guitar in his spare time. For help with legislative research or obtaining legislative materials please contact Scott at [Sjuskiewicz@mt.gov](mailto:Sjuskiewicz@mt.gov) or (404) 444-2957.

## ENERGY AND TELECOMMUNICATIONS COMMITTEE

Committee to meet in Montana's "energy capital"...The Energy and Telecommunications Interim Committee is headed to Colstrip to kick off a detailed study aimed at

### THE INTERIM

Montana Legislative Services Division  
Room 110, State Capitol  
PO Box 201706  
Helena, MT 59620-1706  
Phone: (406) 444-3064  
Fax: (406) 444-3036

**THE INTERIM** is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.mt.gov>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

A Publication of  **Legislative  
Services  
Division**

analyzing the prospects for carbon sequestration in the Big Sky state.

The committee meets Sept. 6-7 in Colstrip. Born in 1924 when the Northern Pacific Railroad started mining coal to fuel steam locomotives, Colstrip is known as the "energy capital of Montana." Today the Colstrip power plant operates four coal-fired generating units that are capable of producing more than 2,100 megawatts of electricity.

The Colstrip operation is the second largest coal-fired project west of the Mississippi. The plant, which employs about 345 people, is owned by PPL Montana, Puget Sound Energy, Portland General Electric Company, Avista Corporation, PacifiCorp, and NorthWestern Energy.

Colstrip, the largest plant in the state, accounts for 82 percent of the greenhouse gas emissions from power plants in Montana, according to a Draft Greenhouse Gas Inventory and Projections report compiled for the Montana Climate Change Advisory Committee. Overall in Montana, electrical generation is responsible for about 18 million metric tons of CO<sub>2</sub> equivalent, according to findings in the report.

Committee members will tour the plant and visit the nearby Rosebud Mine. The mine supplies almost all of its current production to the four-unit operation. There is limited seating on the tours, and tour attendees must confirm in advance.

Tour a prelude to carbon sequestration study...Following the tours, the committee will hear several presentations on carbon sequestration. A few highlights on Thursday include the Big Sky Carbon Sequestration Partnership, the Northern Plains Resource Council, and the chief executive officer and general manager of Basin Electric. The Dakota Gasification Company, a subsidiary of Basin Electric, is involved in a substantial carbon sequestration project. About 10 million tons of CO<sub>2</sub> have been captured at the company's Great Plains Synfuels Plant near Beulah, North Dakota, and sequestered in Canadian oil fields.

On Friday, the committee will hear from the National Center for Appropriate Technology, the Montana Board of Oil and Gas, and the Department of Environmental Quality. Those discussions also will focus on carbon sequestration, renewable energy, and conservation. The Public Service Commission and Department of Commerce Energy Infrastructure Promotion and Development Division will provide updates.

Consensus reached on committee studies...During its July 10 organizational meeting, committee members reached a consensus on a work plan that details studies of carbon sequestration, the costs and savings of wind power, public power opportunities, and an evaluation of transmission lines. The committee also will receive information on water use as it relates to coal gasification and liquefaction and an overview of the state of telecommunications systems in Montana. At the September meeting, the committee will finalize and vote on the work plan, establishing various deadlines to accomplish the study

tasks.

Agenda available...The agenda is available on the committee's webpage at [http://leg.mt.gov/css/committees/interim/2007\\_2008/energy\\_telecom/default.asp](http://leg.mt.gov/css/committees/interim/2007_2008/energy_telecom/default.asp). For more information about the committee, contact Sonja Nowakowski at [snowakowski@mt.gov](mailto:snowakowski@mt.gov) or at 444-3078.

## STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

September meeting...The State Administration and Veterans' Affairs Interim Committee will meet in Helena on Friday, Sept. 7, in Room 102 of the Capitol at 8:30 a.m.

The committee will review the Post-Deployment Health Reassessment Program and the report and recommendations of the PDHRA Task Force. People invited to testify on the program include Lt. Col. Scott Smith of the Montana National Guard; Joe Foster, administrator, Veterans' Affairs Division, Montana Department of Military Affairs; Maj. Gen. Randall Mosley, director, DMA; Joyce DeCunzo, administrator, Department of Public Health and Human Services; and Sheena Wilson, deputy chief of staff in the governor's office. The public will have an opportunity to comment on the health reassessment program and report.

The committee will also look at various aspects of the state's public employee retirement plans. A number of stakeholders will provide their insights and advice regarding the retirement systems, including: Roxanne Minnehan, executive director of the Public Employees' Retirement Administration; David Senn, executive director of the Teachers' Retirement System; Carroll South, executive director of the Board of Investments; Quentin Nyman, executive director of the Montana Public Employees' Association; Bob Vogel, School Boards' Association; and Charlotte Thomas, Retired Teachers Association. The committee will provide time for public comment as well.

Election law review underway...The House Joint Resolution 46 study of Montana's election laws is getting some advice from on-the-ground experts, with a work group of interested parties reviewing existing laws and discussing ways to make the statutes more workable. The work group's activities will also include a discussion of expanded use of mail ballot elections.

HJR 46 calls for a comprehensive review of the laws governing the administration of elections and draft legislation to clean up and clarify existing laws as well as to permit or require mail ballot elections.

The work group's input is the first step in the bill-drafting process; the group's comments and suggestions will be presented to SAVA later this fall to provide information on potential changes to the laws and to seek committee direction on policy issues that have arisen.

Participants have already identified a number of changes, such as making some of the requirements for registering and administering regular, absentee, and mail

ballot elections the same; resolving inconsistencies in the training and certification requirements for school and other election judges; and clarifying the procedures for registering as a permanent absentee voter and for handling provisional and challenged ballots.

In addition, participants have identified issues they want to bring to SAVA's attention, including having county clerks and recorders--instead of school district clerks--administer school elections and funding and resource problems facing election officials.

The work group's first two meetings in August focused on the general election statutes, while its Aug. 30 meeting was set to focus on mail ballots. Additional meetings may be scheduled in September. The group includes representatives of the Secretary of State's Office, which supervises the administration of elections in Montana; county clerks and recorders, who administer non-school elections at the local level; the Montana School Boards Association; the Montana Association of School Business Officials; the Office of Public Instruction; and other interested groups, including the League of Women Voters, the League of Cities and Towns, the Montana Association of Counties, AARP, Montana Advocacy Project, Montana Conservation Voters, and Montana Women Vote.

For more information on the study, please contact Sue O'Connell at (406) 444-3597 or soconnell@mt.gov.

Agenda available...The tentative agenda for the Sept. 7 committee meeting is on the committee's webpage and will be updated as the meeting date approaches. If you have questions about the committee, contact Dave Bohyer, committee staff, at dbohyer@mt.gov or (406) 444-3064, or Rep. Franke Wilmer, the committee's presiding officer, at (406) 599-3619.

## CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee to begin work on studies in September...The Children, Families, Health, and Human Services Interim Committee will begin its work on two interim studies when it meets Sept. 24--a study of emergency medical services and a study of Montana's health-care delivery system, including specialty hospitals.

The Department of Public Health and Human Services will also provide an update on its activities at the meeting. The committee has oversight responsibility for the agency.

The committee is scheduled to meet at 8:30 a.m. in Room 137 of Capitol.

SJR 5 study of emergency care...The committee will start its Senate Joint Resolution 5 work with an overview of emergency medical services from the state and local government perspectives. Jim DeTienne of the state EMS and Trauma Systems Section and Jeannie Worsch of the Board of Medical Examiners will describe the work these

state agencies do to train and certify EMS providers and to channel funding and other support to the locally operated services. County and city officials will discuss topics important to local governments in providing and supporting emergency services.

SJR 5 directs the committee to identify the challenges involved in providing emergency care and ways to ensure the continued viability of the EMS system.

SJR 15 study of health-care delivery system...The committee will begin its Senate Joint Resolution 15 study of the health-care delivery system by hearing an overview of providing health care delivery services in Montana. Topics include descriptions of the different types of health care delivery services and ownership in Montana, a review of Montana court cases involving health care delivery, the tax treatment given to nonprofit and for-profit facilities, economic concerns, and physician credentialing.

The overview topics will provide background information to committee members, so they can better determine where to focus their time and attention during the interim.

Community Services Block Grant presentation...Jim Nolan of DPHHS's Intergovernmental Human Services Bureau will discuss the state's Community Services Block Grant application, which outlines the proposed use of federal funds for programs that assist low-income people. The application, for nearly \$3 million in each of the next two calendar years, was submitted to the federal government in August and is awaiting approval.

Under state law, 90 percent of the funds are distributed to the state's ten Human Resource Development Councils for activities that are designed to reduce poverty, revitalize low-income communities, and empower low-income people to become self-sufficient. The funds support such activities as job counseling, day-care assistance, temporary shelter, budgeting assistance, and distribution of surplus food. The application contains the work plans submitted by each of the regional councils, describing how they plan to use the funds.

The state retains 10 percent of the block grant, half of which may be used for administrative costs and half of which may be used for special projects.

Following Nolan's presentation, the committee will have an opportunity to comment on and make suggestions about the block grant application. The committee also will take public comment on the application.

Committee updates available online...Stay tuned to the committee's webpage at [www.leg.mt.gov/css/committees/interim/2007\\_2008/child\\_fam/default.asp](http://www.leg.mt.gov/css/committees/interim/2007_2008/child_fam/default.asp) for the latest news on schedules and activities and to obtain staff reports and other materials as they become available.

Questions?...Please contact Sue O'Connell at (406) 444-3597 or soconnell@mt.gov for more information about committee activities.

## LEGISLATIVE FINANCE COMMITTEE

Special session revenue "triggers" met... During the May special session, the Legislature enacted two bills that contain fiscal policy "triggers" that are effective if FY 2007 general fund revenue collections exceed certain amounts. The revenue triggers are contained in HB 2, the general appropriations act, and HB 9, which provided for a \$400 property tax rebate and a refundable income tax credit.

HB 2 appropriates up to \$30 million to the Office of Public Instruction for distribution to schools for capital investment and deferred maintenance payments. The appropriation is contingent upon FY 2007 general fund revenue exceeding \$1,762,355,000. The Department of Administration has certified that the total general fund revenue in FY 2007 was \$1,838,053,331. Therefore, the maximum amount of \$30 million is appropriated to the Office of Public Instruction for distribution to public schools.

HB 9 also contains a revenue trigger that provides an individual income tax credit for a portion of school equalization property taxes assessed against the principal residence owned by the taxpayer. This trigger is based on FY 2007 general fund revenues exceeding \$1.802 billion. As stated above, the certified revenue amount was about \$1.838 billion which is approximately \$36 million more than the trigger amount. This means that taxpayers will receive \$36 million in tax credits that may be claimed on their tax year 2007 returns. The tax credit will be about \$140 for each principal residence. For further information, contact Terry Johnson at [tjohnson@mt.gov](mailto:tjohnson@mt.gov) or at (406) 444-2952.

Finance Committee meets in October... The Legislative Finance Committee will meet on Tuesday, Oct. 9 and Wednesday, Oct. 10. Some committee work groups will be scheduled to meet around the same time. The agenda and reports will be available near the end of September on the Legislative Fiscal Division website at <http://www.leg.mt.gov/css/fiscal/lfc.asp>.

For additional information, contact Clayton Schenck at [cschenck@mt.gov](mailto:cschenck@mt.gov) or (406) 444-2986.

## ENVIRONMENTAL QUALITY COUNCIL

Environmental Quality Council meets in Helena Sept. 13 and 14... The Agency Oversight Subcommittee meets Thursday morning, Sept. 13, in Room 102 of the Capitol. The entire EQC will convene later that afternoon to hear a panel discussion on climate change.

The EQC decided in June to study climate change. The September discussion will be an introduction to the issue from the viewpoints of several speakers.

On Friday morning, council members begin their examination of allowing conservation easements to be sold on state school trust lands. As passed by the Legislature, the conservation easement study (HJR 57) requires an evaluation of the effects of establishing conservation easements on state trust lands, including costs, benefits,

compatibility with existing uses, and how to ensure that multiple use management occurs in the future.

Scheduled speakers include Tom Schultz of the Department of Natural Resources and Conservation, which manages the trust lands, and Angus Maciver of the Legislative Audit Division. Maciver recently completed an audit of conservation easements statewide.

The EQC will hear updates on the work of the interim committees on energy and telecommunications and water policy as well as the progress of water adjudication.

More information on the web... For more information on the council's interim work and an agenda for the September meeting, visit [http://leg.mt.gov/css/lepo/2007\\_2008](http://leg.mt.gov/css/lepo/2007_2008).

## REVENUE AND TRANSPORTATION COMMITTEE

Sept. 19 meeting scheduled... A busy day awaits the Revenue and Transportation Interim Committee on Sept. 19. The committee will meet at 8 a.m. in Room 137 of the Capitol.

Extra cash helps schools, taxpayers... Terry Johnson of the Legislative Fiscal Division will report on general fund revenue collections for fiscal year 2007 and will discuss two so-called revenue triggers that were met at the end of the fiscal year. These triggers, adopted in the May special session, became effective when fiscal year 2007 general fund revenue collections exceeded certain amounts. The first trigger, contained in HB 2, provides that public schools will receive money for capital improvements and deferred maintenance. The other trigger, contained in HB 9, sets the amount of the individual income tax credit for a portion of school equalization property taxes assessed against a taxpayer's principal residence. (See related article on this page under the Legislative Finance Committee.)

Committee begins work on assigned studies... The Legislative Council assigned two interim studies to the committee. House Joint Resolution 61 requests a study of the linkage of state and federal income taxes and Senate Joint Resolution 31 requests a study of taxation and school funding. House Bill 488 directs the committee to study property taxes and periodic reappraisal.

Jeff Martin, committee staff, will present a brief background report on the linkage between federal and state income taxes and Rep. Jill Cohenour, sponsor of HJR 61, will discuss the goals of the study.

Martin will summarize property tax information that was presented at the National Conference of State Legislatures annual meeting in Boston. The presentation will have some pertinence to both the SJR 31 study and the HB 488 study. In addition, the Department of Revenue will discuss the reappraisal of class three agricultural land, class four residential and commercial property, and class ten forest

land. The department will also provide an update on the new property tax computer system.

Finally, the committee will review the provisions of SB 554 (died in committee) and its relation to the SJR 31 study.

Department reports...Dan Bucks, director, Department of Revenue, will talk about the DOR agreement with the Multistate Tax Commission on the abusive tax shelter voluntary compliance program and present an update on the issuance of restaurant beer and wine licenses. Bucks will also discuss other DOR activities.

Jim Lynch, director, Montana Department of Transportation, will discuss highway safety and the status of the federal highway trust fund and its significance for Montana.

In the loop...For more information about the committee, please contact Jeff Martin at (406) 444-3595 or [jmartin@mt.gov](mailto:jmartin@mt.gov) or Fong Hom, committee secretary, at (406) 444-0502 or [fhom@mt.gov](mailto:fhom@mt.gov). Lee Heiman is the staff attorney

and may be reached at (406) 444-4022 or [lheiman@mt.gov](mailto:lheiman@mt.gov).

## LEGISLATIVE COUNCIL

Council to meet in September for strategic planning...The Legislative Council will meet Sept. 25 and 26 in Helena. The council will meet in Room 102 of the Capitol from 10 a.m. to noon on Sept. 25. Among other things, the council will decide on an appropriation matter related to a mental health study, consider requests from various interim committees for additional funding, and make appointments to the National Conference of Commissioners on Uniform State Laws. Following the business part of the meeting, the council will have a strategic planning retreat at the Mountain Meadow Inn.

For more information, please contact Susan Byorth Fox at (406) 444-3066 or [sfox@mt.gov](mailto:sfox@mt.gov). Email sign up for meeting notification and materials are available on the Legislative Council's website.

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## THE BACK PAGE

### THE TANGLED WEB: PAYING FOR FOREST FIRE COSTS

By Barbara Smith, Fiscal Analyst  
Legislative Fiscal Division

#### WHEN THE SMOKE GETS IN YOUR EYES

As I write this, the wildfire season in Montana continues relentlessly. Hundreds of thousands of acres have burned, and, as of August 17, the state has incurred \$37.3 million in wildfire costs. Since I am the "fire girl" in the branch, or so I have been told, I spend the summer months holding my breath waiting for the next fire, exhaling only to answer a flood of questions about the how the state will pay the bill.

Not a day goes by that I don't spend time on the phone or send emails answering legislative and media questions about how and when the bill is paid or if there is a chance of a special session. Most people know that the general fund eventually pays the bill, but they are unaware of the tangled web associated with paying the tab. As a fiscal analyst, it is my job to assure the Legislature that the state has a way to pay the bill.

#### THE WEB IS WOVEN

So here is how it goes. When the fire season starts, the state's resources and infrastructure, supported by a combination of forest protection fees and the state general fund, are mobilized to fight wildfires. But once a helicopter is airborne or a fire team is dispatched, the state begins to incur nonbudgeted costs. As the fire season progresses, payroll and other fire-related operating costs rise dramatically and cash flow becomes a significant problem.

Because the Legislature does not appropriate money for fire suppression, the Department of Natural Resources and Conservation does not have a way to pay directly the state's share of the costs. Of the \$37.3 million incurred so far for fighting fires, \$ 14.4 million is billable to federal entities and \$22.9 million is owed by the state. We know that these costs will grow.

To show the magnitude of the problem and how the state's share of fire costs is paid, I will use the costs associated with last year's fire season (fiscal year 2007). In that year, the state incurred \$61 million in total costs, of which \$21.3 million was billable to other entities, leaving the state responsible for \$39.7 million.

Section 10-3-312, MCA, provides that whenever the governor declares an emergency up to \$16 million for the biennium is statutorily appropriated from the general fund to the governor in order to deal with the emergency. Because the governor declared a state of emergency for the fire season, access to the governor's emergency fund was allowed. The governor has pledged \$14 million for this fire season. However, the

cost of the current fire season will exceed the biennium amount of the emergency fund.

Using the fire costs from last year's season, the state would be responsible for payment of around \$25.7 million.

There are a few ways DNRC can pay the costs. In addition to the emergency fund, DNRC has temporarily used the Forestry Division's general fund appropriation. If those funds are insufficient, DNRC will "shop" for general fund authority within the department and then request a supplemental transfer of general fund authority from other divisions within the department. That would entail moving fiscal year 2009 budget authority to the current fiscal year to be used for fire costs. Unfortunately, DNRC has at most \$8 million that could be moved forward. Even with an \$8 million transfer, DNRC would still need \$17.7 million of general fund authority to finish paying the bill.

At this point, there are few options. The department could take a short-term general fund loan and pledge federal reimbursements to repay the loan. This method has been used during other fire seasons. If federal reimbursements are insufficient to pay back the loan, then a special session might be needed to appropriate money to cover the remaining costs.

If DNRC manages to cover fire costs for this season and next season, the Legislature will be faced with making an emergency supplemental appropriation at the beginning of the 2009 legislative session. DNRC will be out of general fund appropriation authority and may have difficulty making payroll. This supplemental appropriation would use the ending fund balance to pay the fire costs.

#### UNTANGLING THE WEB?

The bill will get paid, but it will take a variety budget moves and some breath holding to get it done. In October, I will present the estimated fiscal year 2008 fire suppression costs to the Legislative Finance Committee and a graphic on how the money will flow. In addition, I will raise the matter of paying for next year's fire costs. The governor's emergency fund will likely be exhausted and there is not another fiscal year to borrow from. As the cost of this fire season grows, so will the average state share. The state has already exceeded the previous average of \$14.2 million a year.

Given the size of fire suppression costs in recent years, policymakers have been discussing other ways for paying these costs. Some of these ideas have included appropriating money for fire costs, increasing the amount in the governor's emergency fund, or imposing surcharges on people living in the wildland-urban interface. Various options should be considered in light of the changes in reimbursements from federal entities and the increase in thresholds to apply for FEMA disaster assistance. Montana will be paying more for fire suppression, but who pays and how it is paid is an open question.

Barbara Smith is a fiscal analyst in the Legislative Fiscal Division. Her duties include budget oversight of Fish, Wildlife and Parks, the Department of Environmental Quality, and the Department of Natural Resources and Conservation. She is also the lead analyst for the Legislative Finance Committee's

performance management initiative. She and her husband, Pete, have two boys, two horses, two hunting dogs, and a cat. She can be reached at (406) 444-5347 or [basmith@mt.gov](mailto:basmith@mt.gov).



# INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
September 2007						1
2	3	4	5	6 Energy and Telecommunications Committee, Colstrip	7 Energy and Telecommunications Committee, Colstrip  State Administration and Veterans' Affairs Committee, Room 102, 8:30 a.m.	8
9	10	11	12 Water Policy Committee, Clark Fork Basin, Thompson Falls	13 Environmental Quality Council, Room 102  Water Policy Committee, Clark Fork Basin, Thompson Falls	14 Environmental Quality Council, Room 102	15
16	17	18	19 Revenue and Transportation Committee, Room 137, 8 a.m.	20	21	22
23	24 Children, Families, Health and Human Services Committee, Room 137, 8:30 a.m.	25 Education and Local Government Committee  Legislative Council, Room 152, 10 a.m.- noon	26 Legislative Council	27	28	29
30						



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
October 2007						
	1 Law and Justice Committee	2	3	4	5	6
7	8	9 Legislative Finance Committee, Room 102, 1 p.m.	10 Legislative Finance Committee, Room 102, 8 a.m.	11 Economic Affairs Committee-- tentative	12	13
14	15	16 State-Tribal Relations Committee, Crow Agency  Water Policy Committee	17 State-Tribal Relations Committee, Crow Agency  Water Policy Committee	18	19 State Administration and Veterans' Affairs Committee	20
21	22	23	24	25	26	27
28	29	30	31			





LEGISLATIVE SERVICES DIVISION  
PO BOX 201706  
HELENA MT 59620-1706